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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,309	12/04/2003	Jeffrey J. Nieter	60,246-283; 10,793	9640

26096 7590 12/22/2006  
CARLSON, GASKEY & OLDS, P.C.  
400 WEST MAPLE ROAD  
SUITE 350  
BIRMINGHAM, MI 48009

EXAMINER
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DWIVEDI, VIKANSHA S

ART UNIT	PAPER NUMBER
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3746

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/22/2006	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/728,309

Applicant(s)

NIETER, JEFFREY J.

Examiner

Vikansha S. Dwivedi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11/24/2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 November 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant has failed to properly claim his invention which has resulted in a vague and indefinite claim. The applicant discloses a bearing with an opening and a drain passage. The lubricant flows generally away from the compressor and towards the motor into the bearing through an opening into a radial passage, and then gets to the drain passage flowing away from the motor and towards the compressor and is directed out of the drain passage towards the compressor. The use of the term "remote" in the instant amendment as well as the flow sequence is vague and indefinite.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 3, 8, 9, 10 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Williams et al. (U.S. Patent number 6,386,840 B1)

Williams et al. discloses a compressor (20) comprising: an electric motor (26) having a stator (27) and a rotor (30, Figure 1A shows the stator and the rotor), said rotor driving a shaft (28, Shown in figure 1A, being driven by the rotor Column 2, lines 12-14) for rotation, and said motor being mounted in a chamber (Portion of 32 defined by 60, 29 and 22, Figure 1A), said chamber including a suction inlet (38, Suction tube inlet shown in Figure 1B) for receiving a fluid to be compressed, such suction inlet passing said fluid to be compressed over said motor to cool said motor (See figure 1A); a compressor housing (Figure 1A, 32), said compressor housing being mounted adjacent to said motor housing(Figure 1A, 32 is adjacent to motor housing), said compressor housing including a compressor pump unit driven by said shaft to compress a fluid (Compressor pump unit shown in Figure 1A has components 22 and 24), and said compressor housing including a chamber for receiving refrigerant from said motor chamber to be compressed by said compressor pump unit (Detailed description Paragraph 3); and said shaft including a bearing (62, Shown in Figure 3) mounted at an end of said motor rotor adjacent to said compressor housing (Figure 1A), and a mount for said bearing (Inherent feature also admitted by the applicant as prior art as shown in applicants drawing 1 and 2 labeled as prior art), said mount including an oil return passage for returning lubricant from said bearing toward an end of said bearing spaced away from said motor (Shown in Figure 3 and described in detailed description paragraph 7; Detailed description Paragraph 3 outwardly extending spout 46 which

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throws the oil outwardly against an inner wall 49 of the housing 32. The oil may then pass downwardly through a clearance 50 between the stator 26 and the inner wall 49 of the housing 32); wherein said compressor pump unit includes reciprocating pistons movable within said chambers, and a lubricant supply system is included for supplying the lubricant to said shaft; wherein said compressor housing is separated from said motor housing by said mount (Figure 1A), said mount including drain passages for guiding said returned lubricant away from said motor rotor (Top right side of Figure 1A and Figure 1B); wherein an oil seal is positioned at a second end of said bearing spaced towards said motor (Seal 84 shown in Figure 4).

With regards to claims 4-7 and 11-14 lack of rejection over prior art should not be interpreted as indication of allowability until the deficiency under 35 U.S.C. 112, second paragraph, is not cured.

### ***Conclusion***

In view of the rejection under 35 U.S.C. 112, second paragraph, the indication of allowable subject matter is withdrawn.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vikansha S. Dwivedi whose telephone number is 571-272-7834. The examiner can normally be reached on M-F, 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on 571-272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Vikansha*

VSD

December 11, 2006

*Ehud Gartenberg*

EHUD GARTENBERG  
SUPERVISORY PATENT EXAMINER